

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**Case No.** 00-6273-CR-PCH

**The attached hand-written  
document  
has been scanned and is  
also available in the  
SUPPLEMENTAL  
PAPER FILE**

DE# 715  
Docket Clerk JK

United States District Court  
Southern District of Florida  
CASE NO. 00-6273 CR-HUCK

2005 AUG 16 PM 4:27  
CLERK OF DISTRICT COURT  
U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

United States of America  
vs  
Ariel A. Hernandez,

Motion For Copy of trial transcript  
by Indigent Litigant

Come now The Defendant Ariel A. Hernandez, pro se  
AND pursuant to Federal Statute 28 USC § 753(f)  
for an order to supply a copy of The Trial Transcripts  
for The use, AND filing a 28 USC § 2255 motion  
The Defendant AVERs The following.

A) The Defendant is indigent AND unable to retain  
A Attorney to file a 28 USC § 2255 motion.

B) The Court has awarded Defendant Indigent status

C) Attorney Appointed for Appeals (Richard Rosenbaum)  
Received a copy of The Trial Transcript on  
computer C.D's. This Defendant has no Access  
to A computer, Therefore These C.D's Are useless  
to him.

715  
/st

D Defendant needs to review testimonies from trial to properly pinpoint his trial counsel's ineffectiveness

E This District Court has the Authority to provide this Defendant with a copy of the Transcripts

F The **Seventh Circuit** pointed out that under Federal Statute "Anyone can inspect the trials' transcripts in the clerk's office if they can get to it. Thus this inmate is prevented from inspecting and reviewing the trial transcripts because of his imprisonment from traveling to the clerk's office. (see 28 U.S.C. 753 (b) )

G To deny this motion would violate the equal protection clause by denying to indigent inmates what affluent prisoners could obtain by having their lawyers pursue the district courts files. Thus the Seventh District concluded "Requests for the pre-existing record in the underlying criminal proceeding should be granted as by right of the District Courts to prisoners seeking to use the record to prepare a collateral attack on their convictions (see *Rush v US* 559 F.2d 455) (7th Cir. 1977)


11 In *McClellan v. US* (420 US 321) it was agreed that a free transcript ought to be provided based on the prisoners allegations that he had need for a transcript to demonstrate the non-fairness of his collateral attack on his conviction. The Defendant reminds the court that a transcript is in existence but was never made available to him. Defendant also sought a copy from his Attorney which he stated that the CJA will not reimburse him or allow him to make a copy at the courts expense. This is further hindered because counsel for Defendant attained the transcripts in computer disks which this Defendant has no access to a computer whatsoever because of his imprisonment.

12 Since Defendant is on a time limit to file a 28 USC 2255, He needs these trial transcripts without delay.

Wherefore, This Defendant respectfully request that this Honorable Court enter a Order to provide a free copy of the trial transcript to this Defendant so that he may properly and timely file his 28 USC. 2255 motion.

UN NOTARIZED cath

Under the penalty of perjury all information contained within is true to the best of my knowledge




Certificate of Service

I hereby certify that a copy of the foregoing  
has been mailed this 9th day of August, 2005  
To AUSA Lisa Hirsch, office of the U.S. Attorney,  
99 NW 4th St. Miami, Fla. 33132 AND List  
of Counsel.

AUSA Lawrence D. Lavecchio  
office for the U.S. Attorney  
500 E. Broward BLVD 7th Floor  
Ft Lauderdale, Fla. 33394

AUSA Jeffrey H. SLOMAN  
office for the U.S. Attorney  
500 E. Broward BLVD 7th Floor  
Ft Lauderdale, Fla. 33394

  
Ariel A. Hernandez  
# 040061011  
T. G. K.  
7000 NW 41st.  
Miami, Fla. 33166.